

MEASURE INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 283

Mr. BRYAN. Mr. President, I now ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 283 and that the measure then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of Senate Joint Resolution 369, the "Year of Thanksgiving for the Blessing of Liberty" and Senate Joint Resolution 351, the "National Trauma Awareness Month," that the Senate proceed to their immediate consideration; that the resolutions be deemed read a third time, and passed; that the motion to reconsider be laid upon the table; that the preambles be agreed to; and that the consideration of these items appear individually in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

YEAR OF THANKSGIVING FOR THE BLESSINGS OF LIBERTY

The joint resolution (S.J. Res. 369) designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty" was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. Res. 369

Whereas the people of the United States have expressed gratitude by celebrating a national season of thanksgiving since the 17th century;

Whereas the War for Independence was won and the Constitution written and adopted to secure the blessings of liberty for citizens;

Whereas after the first Congress drafted a Bill of Rights to be added to the Constitution, established a Federal judicial system, created departments of administration, and established the Government of the United States under the Constitution, it requested President Washington to issue a proclamation of national thanksgiving;

Whereas in the first Presidential proclamation, President Washington called on the people of the United States to acknowledge, by thanksgiving, the blessings of civil and religious liberty;

Whereas by December 15, 1791, three-quarters of the United States had ratified the proposed Bill of Rights;

Whereas 1991 is recognized as the official observance of the bicentennial of the ratification of the Bill of Rights; and

Whereas for 200 years the people of the United States have enjoyed the blessings of liberty under the Constitution and the Bill of Rights, embodied in the first 10 amendments of the Constitution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1991 is designated as the "Year of Thanksgiving for the Blessings of Liberty", and the President is authorized and requested to issue a procla-

mation calling upon the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the year with appropriate ceremonies and activities.

NATIONAL TRAUMA AWARENESS MONTH

The joint resolution (S.J. Res. 351) to designate the month of May 1991 as "National Trauma Awareness Month" was considered, ordered to a third reading, read a third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. Res. 351

Whereas more than eight million individuals in the United States suffer traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals less than forty-four years of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury often occurs without warning;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than \$140 billion on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and treatment through emergency medical services and trauma systems; and

Whereas the people of the United States must be educated in the prevention and treatment of trauma and in the proper and effective use of emergency medical systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May, 1991 is designated as "National Trauma Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

MEASURE PLACED ON THE CALENDAR

Mr. BRYAN. Mr. President, I ask unanimous consent that H.R. 2754, the Christopher Columbus Quincentenary Coins Act, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 793, S. 1660, the Telephone Operator Consumer Services Improvement Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1660) relating to telephone operator consumer services, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "aggregator" means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services;

(2) "call splashing" means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable to determine the actual originating location of the call and, because of such inability, is prevented from billing the call on the basis of such actual originating location;

(3) "Commission" means the Federal Communications Commission;

(4) "consumer" means a person initiating any interstate telephone call using operator services;

(5) "equal access" has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in *United States v. Western Electric, Civil Action No. 82-9192* (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this Act;

(6) "equal access code" means a carrier-specific number that allows the public to obtain an equal access connection to that carrier;

(7) "operator services" means any interstate telecommunications service that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

(A) automatic completion with billing to the telephone from which the call originated; or

(B) completion through a carrier-specific access code number used by the consumer, with billing to an account previously established with the carrier by the consumer;

(8) "person" includes an individual, partnership, association, joint-stock company, trust, or corporation; and

(9) "presubscribed provider of operator services" means the interstate provider of operator services to which the consumer obtains access when the first digit dialed is the number "9".

SEC. 4. RULEMAKING REQUIRED.

(a) **RULEMAKING PROCEEDING.**—The Commission shall conduct a rulemaking proceeding pursuant to title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) to prescribe regulations to—

(1) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

(2) ensure that consumers have the opportunity to make informed choices in making such calls.

(b) **DEADLINES.**—The Commission shall initiate the proceeding required under subsection (a) within 30 days after the date of enactment of this Act and shall prescribe regulations pursuant to the proceeding not later than 180 days after the date of enactment of this Act. Such regulations shall take effect not later than 90 days after the date the regulations are prescribed.

(c) **CONTENTS OF REGULATIONS.**—The regulations prescribed under this section shall—

(1) contain provisions to implement each of the requirements of section 5(c);

(2) contain such other provisions as the Commission determines necessary to carry out section 5 and the purposes and policies of this Act; and

(3) for purposes of administration and enforcement, be treated as regulations prescribed by the Commission pursuant to title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.).

SEC. 5. MINIMUM REQUIREMENTS.

(a) **REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.**—(1) Within 30 days after the date of enactment of this Act, each provider of operator services shall, at a minimum—

(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

(B) permit the consumer to terminate the telephone call at no charge before the call is answered;

(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

(i) a quote of its rates or charges for the call;

(ii) the methods by which such rates or charges will be collected; and

(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (b) and, if applicable, subsection (g);

(E) withhold payment of any compensation, including commissions, to aggregators (i) at locations at which blocking of access by means of "950" or "800" numbers to interstate common carriers occurs in violation of subsection (b)(1)(B), and (ii) if the Commission establishes the requirement described in subsection (g)(1), at locations at which blocking of equal access codes occurs;

(F) be prohibited from billing for unanswered telephone calls in areas where equal access is available, and be prohibited from knowingly billing for unanswered telephone calls where equal access is not available;

(G) be prohibited from call splashing, unless the consumer requests to be transferred to another provider of operator services; the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred; and

(H) be prohibited from billing an interexchange telephone call to a billing card number which—

(i) is issued by another provider of operator services; and

(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

(2) In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this Act, each presubscribed provider of operator services shall—

(A) identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before placing the call and before the consumer incurs any charge; and

(B) state clearly to the consumer at the beginning of the call, "Our rates are available on request."

(b) **REQUIREMENTS FOR AGGREGATORS.**—(1) Each aggregator, within 30 days after the date of enactment of this Act, shall—

(A) post on or near the telephone instrument, in plain view of consumers—

(i) the name, address, and toll-free telephone number of the provider of operator services;

(ii) a written disclosure that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

(iii) the name, address, and telephone number of the consumer affairs division of the Commission, to which the consumer may direct complaints regarding operator services; and

(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer and that no charge by the aggregator to the consumer for using such an "800" or "950" access code number is greater than the amount the aggregator charges for calls placed to the presubscribed provider of operator services.

(2) The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

(c) **REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.**—The regulations prescribed under section 4 shall, at a minimum—

(1) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

(2) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

(d) **COMPETITIVE PAY PHONE COMPENSATION.**—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this Act, the Commission shall reach a final decision on whether to prescribe such compensation.

(e) **TECHNOLOGICAL CAPABILITY OF EQUIPMENT.**—Any equipment manufactured or imported more than 12 months after the date of enactment of this Act and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

(f) **FRAUD.**—The Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

(g) **FACILITATION OF ACCESS.**—The Commission, within 9 months after the date of enactment of this Act, shall require—

(1) that all aggregators ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

(2) that all providers of operator services make available to their customers a "950" or "800" number for use in making operator services calls from anywhere in the United States; or

(3) that the requirements described under both paragraphs (1) and (2) apply.

SEC. 6. DETERMINATIONS OF RATE COMPLIANCE.

(a) **FILING OF INFORMATIONAL TARIFF.**—The Commission shall require each provider of operator services to file, within 30 days after the date of enactment of this Act, and to maintain and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, or other fees which are collected from consumers, with respect to calls for which operator services are provided. The Commission may, after three years following the date of enactment of this

Act, waive the requirements of this subsection but only if the findings and conclusions of the Commission in the final report issued under subsection (b)(2)(C) state that the regulatory objectives specified in section 4(a)(1) and (2) have been achieved.

(b) **PROCEEDING REQUIRED.**—(1) Within 30 days after the date of enactment of this Act, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in section 4(a)(1) and (2) are being achieved. The proceeding shall—

(A) monitor operator service rates;

(B) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

(C) report on, in the aggregate, operator service rates, incidence of service complaints, and service offerings;

(D) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

(E) monitor compliance with the provisions of section 5, including the periodic placement of telephone calls from aggregator locations.

(2)(A) The Commission shall, during the pendency of such proceeding and not later than 6 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

(B) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

(C) Not later than 23 months after the commencement of such proceeding, the Commission shall issue a final report to the Congress on its findings and conclusions.

(c) **AUTHORITY TO ESTABLISH RATE CEILINGS.**—If the Commission finds in the report required under subsection (b)(2)(C) that consumers are not benefiting from a competitive market for operator services, the Commission shall have the authority to establish ceilings for the rates charged by providers of operator services, based upon the rates charged by the largest carrier in the interstate operator services market.

SEC. 2. PENALTIES; FORFEITURES.

The provisions of title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) shall apply to violations of this Act or regulations prescribed under this Act in the same manner and to the same extent as to violations of the Communications Act of 1934 or rules and regulations under that Act, including—

(1) criminal penalties for willful and knowing violations of statutory provisions, consisting of a fine of no more than \$10,000 or imprisonment for no more than 1 year, or both, for a first offense, and a fine of no more than \$10,000 or imprisonment for no more than 2 years, or both, for any subsequent offense;

(2) criminal penalties for willful and knowing violation of Commission rules, regulations, conditions, and restrictions, consisting of a fine of not to exceed \$500 for each day in which an offense occurs; and

(3) forfeiture penalties for the willful or repeated failure to comply with statutory provisions or Commission rules, regulations, or orders—

(A) of not to exceed \$100,000 for each violation or each day of a continuing violation by a common carrier subject to title II of the Communications Act of 1934, or by an applicant for any common carrier license,

permit, certificate, or other instrument of authorization issued by the Commission; and

(B) of not to exceed \$10,000 for each violation or each day of a continuing violation by a person that is not such a common carrier or applicant.

AMENDMENT NO. 2024

(Purpose: To make an amendment in the nature of a substitute)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for Mr. INOUYE, proposes an amendment numbered 2024.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"Sec. 226. TELEPHONE OPERATOR SERVICES.

"(a) **DEFINITIONS.**—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the Subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(b) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) **IN GENERAL.**—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) **ADDITIONAL REQUIREMENTS FOR FIRST 3 YEARS.**—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) **REQUIREMENTS FOR AGGREGATORS.**—

"(1) **IN GENERAL.**—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) post on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the

consumer may direct complaints regarding operator services; and

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(2) **EFFECT OF STATE LAW OR REGULATION.**—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

"(d) **GENERAL RULEMAKING REQUIRED.**—

"(1) **RULEMAKING PROCEEDING.**—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) **DEADLINES.**—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 310 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) **CONTENTS OF REGULATIONS.**—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (c) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) **ADDITIONAL REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.**—The regulations prescribed under this section shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) **SEPARATE RULEMAKING ON ACCESS AND COMPENSATION.**—

"(1) **ACCESS.**—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "950" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) **COMPENSATION.**—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) **TECHNOLOGICAL CAPABILITY OF EQUIPMENT.**—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) **FRAUD.**—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) **DETERMINATIONS OF RATE COMPLIANCE.**—

"(1) **FILING OF INFORMATIONAL TARIFF.**—

"(A) **IN GENERAL.**—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) **WAIVER AUTHORITY.**—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1) (A) and (B) have been achieved; and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) **REVIEW OF INFORMATIONAL TARIFFS.**—If the rates and charges filed by any provider of operator services under paragraph (1) appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable, and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) **PROCEEDING REQUIRED.**—

"(A) **IN GENERAL.**—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1) (A) and (B) are being achieved. The proceeding shall—

(i) monitor operator service rates;

(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

(iii) report on (in the aggregate and by individual provider) operator service rates, incidence of service complaints, and service offerings;

"(iv) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) REPORTS.—(i) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after the commencement of such proceeding, the Commission shall submit a final report to the Congress on its findings and conclusions.

"(4) IMPLEMENTING REGULATIONS.—

"(A) IN GENERAL.—Unless the Commission makes the determination described in subparagraph (B), the Commission shall, within 180 days after submission of the report required under paragraph (3)(B)(iii), complete a rulemaking proceeding pursuant to this title to establish regulations for implementing the requirements of this title (and paragraphs (1) and (2) of this subsection) that rates and charges for operator services be just and reasonable. Such regulations shall include limitations on the amount of commissions or any other compensation given to aggregators by providers of operator service.

"(B) LIMITATION.—The requirement of subparagraph (A) shall not apply if, on the basis of the proceeding under paragraph (3)(A), the Commission makes (and includes in the report required by paragraph (3)(B)(iii)) a factual determination that market forces are securing rates and charges that are just and reasonable, as evidenced by rate levels, costs, complaints, service quality, and other relevant factors.

"(i) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this Act."

Mr. INOUE. Mr. President, I offer today a substitute version of S. 1660, the Telephone Operator Consumer Services Improvement Act of 1990. This may be one of the most significant pieces of communications legislation to pass the Congress this year. This bill will go a long way toward solving the problems that have plagued consumers who attempt to make operator-assisted calls from telephones made available to the public. This bill seeks to protect the consumer from unfair and deceptive practices by these new operator services companies. At the same time, the bill establishes reasonable ground rules for the promotion of competition in the operator services market.

The need for this bill is well known by any consumer that has attempted to make an operator-assisted call from a hotel, airport, hospital, or other public location over the past few years. Four years ago, several new companies entered the market to provide telephone operator services in competition with AT&T. These new companies, known as "alternate opera-

tor services," or "AOS" companies, often engaged in unfair and deceptive practices that generated thousands of complaints by disgruntled consumers. According to these consumer complaints, these AOS companies often refused to identify themselves, charged rates significantly higher than the rates that consumers expected to be charged, blocked consumers from reaching their carrier of choice through the 950 or 800 access codes, billed for calls that were never answered, and, when consumers asked to be transferred to AT&T, issued bills that indicated the calls were made from locations that were hundreds of miles away from the consumer's actual location.

In 1988, the Telecommunications Research and Action Center, a consumer group known as TRAC, filed a complaint with the FCC against five AOS companies. In ruling on this complaint, the FCC declared that blocking of access was illegal and ordered the carriers to stop blocking access to other carriers. The FCC declined, however, to take any further action. It refused to regulate or even investigate these carriers' rates, and it refused to adopt rules or initiate a rulemaking proceeding to govern the entire operator services industry. The FCC further permitted the industry to apply for waivers of the nonblocking requirements, and virtually all the carriers submitted waiver requests.

After the FCC's ruling, the FCC continued to receive more complaints about AOS companies than about any other problem. Congress stepped forward to respond to these concerns. Last year the House took the lead and passed legislation sponsored by Congressman COOPER to establish reasonable regulations to govern this industry and protect the consumer. The House bill was a significant achievement that reflected a great deal of hard work and compromise.

In the Senate, Senator DIXON introduced a bill that was very similar to the House-passed bill, and Senator BREAUX introduced a companion bill to the House-passed bill. After a hearing on February 7 and several additional rounds of negotiating, the Senate Commerce Committee was able to report a substitute bill to S. 1660 by voice vote on June 27 of this year. That substitute will made only small changes to the strong foundation laid by the House.

After several additional rounds of negotiations among the industry participants and the FCC, we have emerged with a consensus bill that is supported by almost all the members of the industry and the key sponsors of legislation in the Senate and the House. I would, in particular, like to note that the FCC now supports this legislation and has expressed its commitment to resolving the problems in the operator services industry. In fact, the FCC has been very cooperative and helpful in offering suggestions for im-

proving the bill. The bill now includes several provisions that should assist the FCC in taking action to protect consumers of operator services. I fully expect that the FCC will act in good faith to carry out the provisions of this bill as expeditiously as possible. I also expect that the FCC will act quickly on several petitions that are now pending at the commission that are not specifically addressed in this bill.

Senator HOLLINGS, Senator DANKFORTH, and Senator PACKWOOD have all contributed to the drafting of this bill and have indicated their support. Of course, Senators BREAUX and DIXON made significant contributions by introducing the two operator services bills and by continuing to work on the drafting of this substitute. Several other Senators have worked closely on this bill, including Senators ROSS, KOHL, BURNS, LOTT, GORTON, and PRESSLER.

I would also like to commend the chairman of the House Subcommittee on Telecommunications and Finance, Mr. MARKY, the ranking Republican member of that committee, Mr. RINALDO, and the original sponsor of this legislation in the House, Mr. COOPER, for their leadership in recognizing the need for this legislation early on and for crafting a balanced piece of legislation that went 90 percent of the way toward solving the problems in this industry.

In short, this bill reflects hours of hard work by both Houses of Congress and on both sides of the aisle. I appreciate the spirit of cooperation shown by all these members and their staff. It is my hope and expectation that this substitute can be passed by the Senate today and taken up by the House shortly thereafter. I believe that this substitute deserves the strong support of all the members, and I urge its passage.

Mr. HOLLINGS. Mr. President, I rise today to support the substitute amendment being offered by Senator INOUE to S. 1660, the Telephone Operator Consumer Services Improvement Act of 1990. The operator services industry is the latest example of the deregulation gone mad approach to public interest regulation. It used to be that you could pick up a telephone, dial "0", and make your telephone call with the assurance that your rates would be reasonable and your service quality high.

Today, the consumer has no such assurance. You can dial "0" in an emergency and find that no one picks up the line. You can place a long distance call from one State and be billed for a call from another State. You can find that your charges are four times higher than they used to be. And you can be charged for calls that were never answered.

I applaud the efforts of Senator INOUE, Senator BREAUX, and Senator DIXON for taking up this cause. It is

time that we get back to ensuring that the public interest includes the interests of the telephone consumer as well as the interests of the telephone industry.

At the same time, there is no reason to penalize the entire operator services industry for the misguided actions of a few competitors. Consumers are not complaining about the rates and practices of AT&T. It does not seem fair to me to put the burden on AT&T to solve their problems.

I thus believe that the approach taken by this bill, to refer the difficult issue of unblocking and 800 numbers to the FCC, is the proper resolution. The new administration at the FCC has indicated that it is ready to work with Congress and to establish reasonable regulations to protect the consumer and to promote competition. I think it is time to let this FCC do its job.

Once again, I express my appreciation for the hard work of Senator Inouye and the other Senators on the committee who have worked to craft this consensus bill. I urge my colleagues to support the passage of this substitute and of S. 1660, as amended.

Mr. BREAU. Mr. President, for generations after the introduction of Alexander Graham Bell's marvelous invention, the regulated telephone industry became one that Americans could rely on for reliable, near-impeccable service at fair prices. You placed your call from anywhere in the country, at a hotel or motel, on the side of a country road or major highway, in a hospital, airport, train or bus depot, at a high school or university and you knew what to expect. From any place you called, you knew what to expect in rates and service. In fact you rarely consciously considered per-minute rate charges. You were so familiar with the service that you could approximate the cost of a call by its total time.

No more. Now it is a case of transit telephone user beware. The aftermath of the deregulation of long-distance telephone service in 1984 has brought hundreds of new telephone service providers in various markets. With them have come, in the name of competition, varying service offerings at unfamiliar, usually higher, costs to consumers. Many traveling telephone users calling homes or businesses have subsequently suffered telephone bill rate shock.

A most recent example is illustrated in a letter I received from a constituent just a few days ago on September 13. She told me that her husband is on the road for 8 to 10 months of the year. He calls home frequently. The telephone, she says, "is the lifeline to our marriage." They had not had problems with the amounts of their long-distance bills until 2 or 3 months ago. For an unexplained reason, her recent billings were from various telephone companies other than her chosen carrier, AT&T.

My constituent's bitter complaint is that she is charged on her August 4 billing \$208.66 for calls that, according to her AT&T comparison, would have cost \$65.28. The difference is over 200 percent. This family had a similar experience on August 29, receiving charges totaling \$80.90 which would have been \$28.19 at AT&T rates. I have copies of these bills, including the AT&T rate comparisons.

This kind of problem repeated hundreds of times around the country is what prompted me to introduce S. 1660, the basis of the Senate Commerce Committee substitute which will be voted out of the Senate today. In fact, over 4,000 similar consumer complaints were filed in the FCC from January 1988 through February 1990. And, the stream of complaints is still flowing.

The House of Representatives first addressed this issue after nearly a year of negotiations with consumer and telephone industry representatives. By voice vote the resulting legislation, H.R. 971, the Telephone Operator Services Consumer Protection Act, cleared the House in September 1989. Significant compromises were forged in several knotty issues. I introduced in the Senate the companion bill, S. 1660, the Telephone Operator Consumer Services Improvement Act. S. 1660 is intended to curb abusive pricing and billing practices of some operator service provider (OSP) long-distance telephone companies.

My constituent complains that she has been stripped of her rights to use the service which she requested in using her calling card. S. 1660 will protect a consumer's right to choose, yet avoid a premature imposition of rates and commissions penalties.

Among other important provisions, it requires OSP's to identify themselves to callers, and upon request at no cost to the consumer, give rates, billing procedures, and procedures for filing complaints. OSP's will be prohibited from billing a long-distance telephone call to a billing card number which is issued by another OSP unless the call is billed at a rate no greater than that other OSP's rate for that call. OSP's must file their rates at the FCC, and they are required to justify questionable charges.

Within 18 months, S. 1660 requires that telephone for transient use such as on highways, in motels, hotels, airports, and hospitals must be technically capable of connecting callers to long distance carriers of choice. Meanwhile, S. 1660 would prohibit the blocking of access to chosen carriers. If a no-blocking law cannot be enforced at the FCC, penalties such as denials of commissions on telephone service collections paid by OSP's to hotels and motels, et cetera, would then be in order.

Moreover, criminal penalties for willful and knowing violations of the Communications Act, consisting of fines of up to \$10,000 or imprisonment for up

to a year may apply. Violators may also be subjected to forfeiture penalties of up to \$100,000 a day for willful or repeated failure to comply with statutory provisions or FCC Commission rules, regulations or orders.

OSP owners have made major investments in operations and equipment, and some provide enhanced services and job opportunities in their communities. S. 1660 is more than a consumers benefits bill; it offers OSP's an opportunity to improve operations and prove consumer acceptance in the marketplace.

The Congress will know soon enough whether in fact there is industry compliance with this much-needed legislation. S. 1660 requires the FCC to conduct a 9-month study of whether additional regulation is needed. If OSP industry improvements do not materialize, I will support more stringent regulation.

I want to thank Senate Communications Subcommittee chairman, Senator Inouye and the committee staff, particularly John Windhausen and William Heyer, for long hours of extraordinarily effective work that they contributed in the successful effort to move this legislation to this point of passage.

Mr. BURNS. Mr. President, I rise today in support of S. 1660, the Telephone Operator Services Improvement Act of 1990.

Throughout this past year, my colleagues on the Senate Commerce Committee and I have worked diligently to formulate a measure that not only will provide a foundation to promote competition in operator-assisted services, but will preserve the needs and interests of consumers using these telephone services.

It is a well established fact that multiple providers on any communications service ultimately will bring benefits to the public in the form of new services and cheaper rates. Because the operator service industry is so new, these benefits have been slower in coming. Before the advent of alternative operator service providers, as they were first known, consumers knew who the operator was and how to reach them since there was only one provider, AT&T. However, new providers have resulted in an inevitable confusion as consumers struggle to understand how best to utilize the new services. As this transition process occurs, more and more consumers are beginning to learn of operator service providers, [OSP's], and the varied benefits and innovations they may offer.

Such a transition process is not unique to the communications industry. The divestiture of AT&T clearly has brought the American public innovative telecommunication services, lower prices, and spurred competition in the long-distance field. Through MCI, US Sprint, ITT, and hundreds of other smaller long-distance carriers, the American public has been granted

the freedom to choose and as a result of this freedom, competition has flourished. In the end, it is hoped that a market of competitive providers will one day lead to a more fully deregulated regulatory structure. All of us would welcome that. While the battle between AT&T and new competitors has been a long and difficult one, as a whole the American public is reaping the benefits of competition.

The same principle holds true for competition in the operator-assisted services. While we all agree there have been problems with the operator service industry, just as there were in the newly deregulated long-distance industry, the array of new services and state-of-the-art technology being offered by many operator service companies in just 3 short years of existence is phenomenal. If competition had not entered this marketplace, consumers would be the losers.

Mr. President, there have been some critical problems with the operator service industry and if we are to promote competition, these problems need to be addressed. I am very pleased to see that S. 1660 will require the FCC to help resolve many problems and to monitor industry compliance. One particular concern I have is for consumers to continue to have a choice. Individuals who call from any phone in the country should have the right to use the carrier of their choice—either the operator service company provided by that particular phone or any other carrier. The legislation establishes this principle, and it is my hope that the FCC will make it workable as implementing regulations are issued.

We have all heard frustrating stories of customers being denied access to the carrier of their choice while traveling. There are several reasons why this may occur. First, there may be purely technical problems preventing connection to a particular carrier. Second, the carrier of choice may not make available its data base to the operator service company. Without access to this data base, an operator service provider cannot validate and bill the card number and as a result must deny the caller use of the carrier. Third, at times the carrier of choice may deny the transfer of a call from an operator service provider even though the caller wants to access that carrier. Fourth, not all carriers provide a uniform method of access for their customers to reach them. These access problems need to be resolved, and I strongly urge the FCC to investigate universally available solutions that will facilitate ease of access.

Finally, I would like to elaborate my concerns surrounding the current billing, collection, and validation arrangements in the operator service industry, an issue which was left unaddressed in S. 1660. During the discussion on the legislation, I became aware of the disparities in costs and availability of bill-

ing and validation services between AT&T and other operator service providers. I understand several local exchange carriers (LECs) which provide billing, validation and collection services to AT&T do not offer those same services to other OSP's at any price. The LEC's that do provide these services to OSP's sometime charge them a significantly higher amount than they do to AT&T. OSP's are totally dependent on the LEC's for calling card validation, billing and the collection of calls. The inability to obtain such services causes many competitive problems that need to be corrected if we expect consumers to use all OSP services.

I believe billing and collection disparity raises the question of fair competition, and any solution that attempts to satisfy the customer, must address this inequity. Again, I would encourage the Commission to consider this issue in the context of the rule-making required in the bill.

While it is my hope that this legislation will address the problems and concerns surrounding the operator service industry, the need for continual oversight remains. If any abuses persist by operator service companies, the Commission may find it necessary to use the authority given by this bill to crack down on the bad players. I, for one, believe Congress has an important role to play in providing continuing oversight in this industry.

In closing, I want to express my support for this measure. I want to thank my colleagues, particularly Chairmen Hollings and Inouye, for their diligence on this complex issue and commend the staff for their hard work in piecing together a bill that provides consumers with the necessary information to make informed choices, while allowing a new industry to develop in a competitive marketplace. Since the bill will cover every company providing operator services, we are guaranteed upon implementation of the bill's terms, many of the problems plaguing consumers of operator services should disappear. This will be a welcome development. I also want to thank the operator service industry, the consumer groups, and the Federal Communications Commission for their assistance and willingness to work with us on reaching an acceptable compromise.

THE PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2924) was agreed to.

THE PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the votes by which the

amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BRYAN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 971, the House companion; that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and that the text of S. 1660, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and passed; and that the motion to reconsider the passage of the bill be laid upon the table and that S. 1660 then be indefinitely postponed.

THE PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 971), as amended, was passed.

ORDERS FOR TUESDAY, OCTOBER 2, 1990

Mr. BRYAN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Tuesday, October 2; that following the time for the two leaders, there be a period for morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, and that Senator BIRN be recognized for up to 15 minutes; and that the Senate stand in recess between the hours of 12:30 and 2:15 p.m., Tuesday, in order to accommodate the respective party conferences.

THE PRESIDING OFFICER. Without objection, it is so ordered.

INTENT TO PROCEED TO S. 3037, THE MONEY LAUNDERING BILL

Mr. BRYAN. Mr. President, the majority leader asked me to announce for the information of Senators that at 10:30 tomorrow morning, it is his intention to seek consent to proceed on Calendar No. 819, S. 3037, the money laundering bill.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BRYAN. Mr. President, there appears to be no further business to come before the Senate today, so I now ask unanimous consent that the Senate stand in recess, under the previous order, until the hour of 10 a.m., Tuesday, October 2, 1990.

There being no objection, the Senate, at 6:57 p.m., recessed until Tuesday, October 2, 1990, at 10 a.m.